

Record Retention Requirements

Laws	Records/Reports	Retention Requirements
<p>Age Discrimination in Employment Act (ADEA)</p> <p>*Applies to employers with at least 20 employees</p>	<p>Payroll or other records, including those for temporary positions showing employees, names, address, dates of birth, occupations, rates of pay and weekly wage</p> <p>Applications, personnel records relating to promotions, demotions, transfer, selection for training, layoff, recall, or discharge; job advertisement and posting; copies of employee benefit plans, seniority system and merit system</p> <p>IN MONTANA ALL EMPLOYERS, NO AGE LIMIT, MINIMUM OR MAXIMUM</p>	<p>Three years for payroll or other records showing basic employee information</p> <p>Two years for applications and other personnel records</p> <p>Where a charge or lawsuit is filed, all relevant records must be kept until final disposition of the charges or lawsuit</p>
<p>Americans with Disabilities Act (ADA)</p> <p>*Applies to employers with at least 15 employees</p>	<p>Applications and other personnel records (e.g. promotions, transfers, demotions, layoffs, terminations) requests for reasonable accommodation.</p> <p>IN THE STATE OF MONTANA, APPLIES TOO ALL EMPLOYERS WITH AT LEAST 1 EMPLOYEE</p>	<p>Two years from making the record or taking the personnel action</p> <p>Where a charge or lawsuit is filed, all relevant records must be kept until final disposition</p>
<p>Civil Rights Act of 1964, Title VII</p> <p>*Applies to employers with at least 15 employees</p>	<p>Applications and other personnel records (e.g. promotions, transfers, demotions, layoffs, terminations), including records for temporary or seasonal positions.</p> <p>Requires the filing of an annual EEO-1 Report</p> <p>IN THE STATE OF MONTANA, APPLIES TO ALL EMPLOYERS WITH AT LEAST 1 EMPLOYEE</p>	<p>One year from making the record or taking a personnel action</p> <p>Where a charge or lawsuit is filed, all relevant records must be kept until final disposition</p> <p>A copy of the current EEO-1 Report must be retained</p>
<p>Consolidation Omnibus Budget Reconciliation Act (COBRA)</p>	<p>Provide written notice to employees and their dependents of their option to continue group health plan coverage following “qualifying events”, such as the employee’s termination, layoff or reduction in working hours, entitlement to Medicare, and the death or divorce of the employee (that would cause dependents to lose coverage under the employers’ plan</p>	
<p>Davis Bacon Act</p> <p>Service Contract Act</p> <p>Walsh-Healy Public Contracts Act</p>	<p>Records containing the following information for each employee:</p> <p>Basic employee data to include name, address, social security number, gender, date of birth, occupation and job classification</p> <p>Walsh-Healy requires the retention of current work permits for minors</p> <p>Compensation records to include:</p>	<p>Three years from the end of the contract</p> <p>Walsh-Healy requires the retention of data with respect to job-related injuries and illnesses, specifically logs with dates and</p>

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Applies to Federal Contractors	<ul style="list-style-type: none"> ▪ Amounts & dates of actual payment ▪ Period of service covered ▪ Daily and weekly hours ▪ Straight time and overtime hours/pay ▪ Fringe benefits paid ▪ Deductions and additions 	summaries and details of accidents
Employee Retirement Income Security Act (ERISA)	<p>Maintain, disclose to participants and beneficiaries, and Report to the Department of Labor, IRS, and the Pension Benefit Guaranty Corporation (PBGC) certain reports, documents, information and materials. Except for specific exemptions, ERISA's reporting and disclosure requirements apply to all pension and welfare plans, including:</p> <ul style="list-style-type: none"> ▪ Summary plan description (updated with changes and modifications) ▪ Annual reports ▪ Notice or reportable events (such as plan amendments that may decrease benefits, a substantial decrease in the number of plan participants, etc.) ▪ Plan Termination 	Employers must maintain ERISA-related records for a minimum of six years
Employee Polygraph Protection Act	Polygraph test and the reason for administering	Three years
Equal Pay Act	Payroll records including time cards, wage rates, additions to and deductions from wages paid, and records explaining sexually based wage differentials	Three years
<p>Executive Order 11246</p> <p>Applies to Federal Contractors</p>	<p>Requires the preparation of an Affirmative Action Plan (AAP) for Minorities and Women</p> <p>Applications and other personnel records that support employment decisions (e.g. hires, promotions, terminations) are considered "support data" and must be maintained for the AAP</p>	AAPs must be updated annually: and documentation of good faith efforts must be retained for two years . Personnel or employment records must be retained for two years . If there are less than 50 employees or contract is less than \$150,00, the retention period is one year
Fair Labor Standards Act (FLSA)	Payroll or other records containing the following information for each employee: Employee's name; home address; date of birth (if under 19 years of age); gender; time of day/day of week for beginning of workweek; regular hourly rate of pay or other basis of payment (Hourly, daily, weekly, piece rate, commission on sales, etc); daily hours worked; total hours for each work week; total daily or weekly straight-time earnings (exclusive of overtime premiums); total additions to and deductions from wages for each pay period; total wages per pay period; date of each payment of wage; period covered by the payment.	For at least three years

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	For executive, administrative, and professional employees, or those employed in outside sales, employers must maintain records which reflect the basis on which wages are paid in sufficient detail to permit calculations of the employee's total remuneration, perquisites including fringe benefits.	
Family & Medical Leave Act (FMLA)	<p>Records containing basic employee data as required by FSLA and dates of leave taken by eligible employees. Leave must be designated as FMLA leave</p> <p>For intermittent leave taken, the hours of leave</p> <p>Copies of employee notices and documents describing employee benefits or policies and practices regarding paid and unpaid leave</p> <p>Records of premium payments of employee benefits</p> <p>Records of any dispute regarding the designation of leave</p>	Three Years
<p>Federal Insurance Contribution Act</p> <p>Federal Unemployment Tax Act</p> <p>Federal Income Tax Withholding</p>	<p>Records containing basic employment data.</p> <p>Compensation records to include:</p> <ul style="list-style-type: none"> ▪ Amounts & dates of actual payment ▪ Period of service covered ▪ Straight time and overtime hours/pay ▪ Annuity and pension payments ▪ Fringe benefits paid. Tips ▪ Deductions and additions <p>Tax records to include:</p> <ul style="list-style-type: none"> ▪ Amount of wages subject to withholding ▪ Agreements with employee to withhold additional tax ▪ Actual taxes withheld and dates withheld ▪ Reason for any difference between total tax payments and actual tax payments ▪ Withholding forms (W-4, W4-E) 	Four years from the date tax is due or tax is paid
Immigration Reform & Control Act (IRCA)	INS Form I-9 (Employee Eligibility Verification Form) signed by each newly hired employee and the employer.	Three years after date of hire or one year after date of termination, whichever is later.
Occupational Safety & Health Act (OSHA)	<p>A log of occupational injuries and illnesses</p> <p>A supplementary record of injuries and illnesses</p> <p>Post a completed annual summary of injuries and illnesses</p> <p>Maintain medical records and records of exposure to toxic substances for each employee</p>	<p>Five Years</p> <p>Employee's job tenure plus thirty years</p>
<p>Rehabilitation Act of 1973</p> <p>Applies to Federal</p>	Personnel employment records (e.g.; requests for reasonable accommodations, results of physical exams, job advertisements and postings, applications, resumes, tests, test results, interview notes and	<p>Two Years</p> <p>(Note: If a contractor has fewer than 150 employees or a contract</p>

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Contractors	<p>records regarding hiring, assignment, promotion, demotion, transfer, layoff, terminations, rates of pay or terms of compensation and selection for training apprenticeship)</p> <p>Data on complaints of disability discrimination and action taken. Requires an Affirmative Action Plan for individuals with disabilities</p>	<p>of less than \$150,000 the retention period is only one year.) Where a charge of lawsuit is filed, all relevant records must be kept until “final disposition.</p> <p>AAPs must be updated annually; no current requirement to retain expired plans</p>
Uniform Guidelines on Employee Selection Procedures	<p>For employers with 100 or more employees, records showing toe impact of the selection process for each job, maintained by sex for each racial or ethnic group that constitutes at least 2% of the labor force in the relevant labor area or 2% of the applicable workforce.</p> <p>For employer with less than 100 employees, records showing for each year the number or persons, promoted, terminated, applicants hired for each job by sex and where appropriate by race and national origin.</p> <p>Records including applications, tests, and other types of selection procedures used as a basis for employment decisions, such as hiring, promotion, transfer, demotion, training and termination.</p> <p>Adverse impact analysis of selection process must be conducted annually</p>	<p>Where adverse impact is found in the selection process, records must be maintained for two years after the adverse impact is eliminated.</p> <p>For federal contractors, during a compliance review from the Department of Labor’s Office of Federal Contract Compliance Programs, data for the prior year’s analysis must be available, and for the current year if a contractor is six months into its AAP plan year. (See also Executive Order 11246)</p>
<p>Vietnam Era Veterans, Readjustment Assistance Act.</p> <p>Applies to Federal Contractors</p>	<p>Personnel/employment records (see Rehabilitation Act of 1973 above)</p> <p>Affirmative Action Plan for covered veterans.</p> <p>Requires the filing of the annual VETS-100 report.</p> <p>Job openings for positions must be listed with the sate employment service</p>	<p>Two years (Note: If a contractor has fewer than 150 employees or a contract of less than \$150,000 the retention period is only one year)</p> <p>AAPs must be updated annually; no current requirements to retain expired plans.</p> <p>A copy of the current VETS-100 report must be retained.</p>